

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

LOUIS ROSENTHAL

Plaintiff,

v.

COMMONWEALTH OF
PENNSYLVANIA, ET AL.

Defendants.

:
:
:
:
:
:
:
:
:
:

NO. 1:17-CV-02418

JURY TRIAL DEMANDED

ORDER

AND NOW this _____ day of _____, 2018, upon consideration of this Honorable Court's Rule to Show Cause re: Service, and Plaintiff's Response thereto, it is hereby ORDERED and DECREED that the Rule is DISCHARGED.

,J.

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

| | | |
|----------------------|---|----------------------------|
| LOUIS ROSENTHAL | : | |
| | : | |
| Plaintiff, | : | NO. 1:17-CV-02418 |
| | : | |
| v. | : | |
| | : | |
| COMMONWEALTH OF | : | JURY TRIAL DEMANDED |
| PENNSYLVANIA, ET AL. | : | |
| | : | |
| Defendants. | : | |

**PLAINTIFF’S RESPONSE TO THIS HONORABLE COURT’S RULE TO SHOW
CAUSE RE: SERVICE**

Incorporating by reference Plaintiff’s attached Memorandum of Law, Plaintiff respectfully requests this Honorable Court discharge its Rule to Show Cause regarding service.

WEISBERG LAW

/s/ Matthew B. Weisberg
Matthew B. Weisberg, Esquire
PA Attorney ID #: 85570
7 S. Morton Avenue
Morton, PA 19070
(610) 690-0801
(610) 690-0880 – Fax
mweisberg@weisberglawoffices.com
Attorney for Plaintiff

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

| | | |
|----------------------|---|----------------------------|
| LOUIS ROSENTHAL | : | |
| | : | |
| Plaintiff, | : | NO. 1:17-CV-02418 |
| | : | |
| v. | : | |
| | : | |
| COMMONWEALTH OF | : | JURY TRIAL DEMANDED |
| PENNSYLVANIA, ET AL. | : | |
| | : | |
| Defendants. | : | |

**MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFF’S RESPONSE TO THIS
HONORABLE COURT’S RULE TO SHOW CAUSE RE: SERVICE**

Pending before this Honorable Court in the above-captioned matter is Plaintiff’s action in employment discrimination.

This Court issued its Rule to Show Cause as to why the within matter should not be dismissed for failure of service.

This action was filed on the believed eve of the statute of limitations – dismissal will be irreparably prejudicial. There is no prejudice to Defendants.¹ M.K., et al. v. Prestige Academy Charter School, 256 F.Supp.3d 532, 538 (D.Del. 2017).

As evident by Plaintiff’s recently docketed Affidavits of Service, Plaintiff has since perfected service – respectfully suggested as discretionarily warranting the Rule’s discharge. Petrucelli v. Bohringer, et al., 46 F.3d 1298 (C.A. 3 1995); FRCP 4 (m)(notes).

Moreover, the Poulis² and Pioneer³ factors (weighing all in favor of Plaintiff) suggests dismissal inappropriate. All fault is Plaintiff’s counsels’⁴ – not Plaintiff.

¹ Plaintiff’s undersigned counsel has since been in communication with Keli Neary, Esq. – Acting Chief Deputy Attorney General.

² Poulis v. State Farm, et al., 747 F.2d 863 (C.A. 3 1984).

All consideration warrants discretionary discharge.

WHEREFORE, Plaintiff respectfully requests this Honorable Court discharge its Rule to Show Cause. In the alternative, Plaintiff respectfully requests this Court deem Plaintiff's *nunc pro tunc* service. If this Court entertains dismissal, Plaintiff requests oral argument.

WEISBERG LAW

/s/ Matthew B. Weisberg
Matthew B. Weisberg, Esquire
PA Attorney ID #: 85570
7 S. Morton Avenue
Morton, PA 19070
(610) 690-0801
(610) 690-0880 – Fax
mweisberg@weisberglawoffices.com
Attorney for Plaintiff

³ In re O'Brien Envtl., Inc., 188 F.3d 116, 125 N.7 (C.A.3 1999) (citing Pioneer Inv. Svcs. Co. v. Brunswick Assoc., 507 U.S. 380, 395 (1993); *see also*, Drippe v. Tobelinski, 604 F.3d 778 (C.A.3 2010); In re Cendant Corp. PRIDES Lit., 235 F. 3d 176 (C.A.3 2000)).

⁴ Gary Schafkopf, Esq.'s special admission form will soon pend.

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

| | | |
|----------------------|---|----------------------------|
| LOUIS ROSENTHAL | : | |
| | : | |
| Plaintiff, | : | NO. 1:17-CV-02418 |
| | : | |
| v. | : | |
| | : | |
| COMMONWEALTH OF | : | JURY TRIAL DEMANDED |
| PENNSYLVANIA, ET AL. | : | |
| | : | |
| Defendants. | : | |

CERTIFICATE OF SERVICE

I, Matthew B. Weisberg, Esquire, hereby certify that on this 24th day of April, 2018, a true and correct copy of the foregoing Plaintiff's Response to this Honorable Court's Rule to Show Cause Re: Service and Memorandum of Law in Support thereof was served via regular mail, upon the following parties:

Commonwealth of Pennsylvania
d/b/a Pennsylvania State Police
1800 Elmerton Ave.
Harrisburg, PA 17110

Stephen Yanchis
1800 Elmerton Ave.
Harrisburg, PA 17110

Bob Glad
1800 Elmerton Ave.
Harrisburg, PA 17110

Jeffrey Ramos
1800 Elmerton Ave.
Harrisburg, PA 17110

Kyle Teter
1800 Elmerton Ave.
Harrisburg, PA 17110

Thomas Tran
1800 Elmerton Ave.
Harrisburg, PA 17110

WEISBERG LAW

/s/ Matthew B. Weisberg
Matthew B. Weisberg, Esquire
PA Attorney ID #: 85570
7 S. Morton Avenue
Morton, PA 19070
(610) 690-0801
(610) 690-0880 – Fax
mweisberg@weisberglawoffices.com
Attorney for Plaintiff